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Some Legal Phases  
Of the  
Proposition for  
Federal Ownership and Operation  
of the Telephone

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By  
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Of the New York Bar

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By CHARLES T. RUSSELL  
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IN addition to the economic and practical objections to the scheme of federal ownership and operation there is another side to the matter which its proponents have either ignored or failed to recognize. That is the constitutional power of the federal government to acquire and operate the telephone properties.

Lawyers who have given thought and study to the matter say that there is a very serious question indeed as to the constitutional power of the federal government to take and operate even the interstate long distance telephone lines, and that they can find no authority whatever by virtue of which it can lawfully acquire or operate local or intrastate telephone systems.

I shall not within the limits of this short article attempt to make any elaborate discussion of these constitutional questions but wish merely to point out the reasons as I understand them for this lack of constitutional power.

The federal constitution is more than a mere series of legal rules; it is a guide to good government, framed by a body of Americans inspired by the purest and most patriotic motives, and probably the wisest and ablest deliberative body ever assembled. It was intended

as a basis for a permanent system of government and the principles upon which it was founded were believed by its makers to be eternal and absolutely necessary to the future welfare of the American people. From those principles, aided by long experience, were derived its notable provisions which recognize and secure the rights of localities and individuals. The general plan for the government of the Union was to have a centralized power over such matters only as were national in their character and to leave the rest, including all local matters and affairs, to the respective states.

Accordingly the federal constitution strictly limits the activities of the federal government to matters concerning which the Union as a whole is interested. It can declare and carry on war and make peace; create, maintain and regulate an army and navy; coin money; provide for the post-office service; grant patents and copyrights; punish piracies and offenses against foreign nations; make uniform rules of naturalization and bankruptcy; provide for the government of the territories, foreign possessions and the District of Columbia; regulate commerce with foreign nations and among the several states; raise money by taxes, duties and loans to carry on the government; establish courts and make such laws as are necessary and proper for those purposes. All of the federal government's powers are set forth in detail in the constitution itself.

When the constitution was presented for acceptance it was thoroughly understood by the people of the thirteen states that all the powers not plainly granted to the Congress were reserved to the several states. This was a matter of course. The Union was a sort of partnership, and when a man enters into a partnership he retains his control over his family affairs and

private business. You do not have to put that into the partnership papers. Nevertheless the watchful critics of the constitution objected that the reservation to the states was not specifically made, and it was found necessary in order to get it adopted to promise that it should be immediately amended in this respect. Consequently at the very first Congress, held in 1789, an amendment was proposed and unanimously ratified by the states and made a part of the constitution in the following language:

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” (Art. X.)

Nothing could be plainer than the meaning of the language of this amendment. Every intelligent man at all familiar with constitutional history knows that if telephone systems had been in existence at the time the constitution was adopted the entire control of such systems within the limits of each state would have been reserved to that state. No one would have even suggested that they could be operated by the federal government.

When the constitution was before the people for adoption, among its greatest champions were the distinguished publicists Alexander Hamilton, James Madison and John Jay. They wrote a series of papers advocating and explaining the proposed constitution, which, collected together, are known as the “Federalist.” In Number 45 of this collection can be found these words, which have been approved by the Supreme Court of the United States:

“The powers delegated by the proposed constitution to the federal government are few and defined.



Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.”

Here is a perfectly plain proposition, clearly and concisely stated. Each state was sovereign as to its internal affairs. All matters foreign to each state and to the Union were to be within the federal domain; the rest remained to the states. And lest there should be any doubt about it specific mention was made of the federal powers and nothing not thus enumerated was to be granted to the central government. The powers of government being thus divided, those of the Congress within its domain were to be absolute and exclusive and not to be impaired and those of each of the states within its domain were also to be absolute and exclusive and not to be impaired.

Under what delegated and enumerated powers, then, do the proposers of this scheme claim that the federal government can expend hundreds of millions of dollars in the acquisition of the existing telephone properties or otherwise embark in the business of managing and operating telephone plants and systems which were originally established and have since been maintained by private enterprise under the authority of the state governments? The claim is asserted under two of the grants of power to Congress, namely, the power “to establish post-offices and post-roads” and the power “to regulate commerce \* \* \* among the several states.”

Some reference has been made to the telegraph lines maintained by the War Department for military purposes, but it cannot seriously be contended that the military power is sufficient to enable the federal government to establish and operate a public telephone system. Unless, therefore, the proposal is authorized by and falls within the powers conferred by the post-office or commerce clauses, the Congress is without power. If the power is not found in the constitution the Congress cannot assume it.

The constitution is an instrument of enumeration, not of definition, and it has been repeatedly held and is the well-settled rule that the words of the constitution are to be construed in their ordinary and natural sense and to mean only what they say. The meaning of the words "post-offices" and "post-roads" was and is well understood by everyone. They mean the same now as they did in 1787. This power has been construed since the foundation of the government to authorize merely the maintenance of offices where written or printed matter in the shape of letters, newspapers or other documents, or parcels, may be received to be forwarded or distributed; the carriage of such mail matter; the fixing of charges for such carriage; the designation of routes over which it shall be carried, and the provision of measures necessary to insure its safe and speedy transit and delivery. The words most broadly construed mean nothing more than this. They do not confer upon the Congress power and control over all means and methods of communication. Telephone operation is entirely unrelated to any of the functions of the post-office and is wholly foreign to the collection, carriage and distribution of the mails. Telephone service is not in any sense a growth or development of the post-office service.

Equally absurd is it to say that the words “post-roads” can be construed to mean telephone routes. These roads belong to the states, cities, corporations or individuals and not to the United States, “and are declared post-roads only to prevent the carriers from being interfered with, and the mails from being delayed in their transportation, and the postal service from frauds. The government has no other control over them.” (96 U. S. 17.) They include waters, canals and plank roads while the mail is being carried thereon and all letter carrier routes in towns or cities, and also railroads. A post-road is merely a route on which mail is carried.

Some people may ignorantly say that the Congress has made telegraph routes into post-roads. But this is not so. The misapprehension when it exists arises from the fact that in 1866, in order to aid and encourage the development of the telegraph systems the Congress passed the so-called Post Roads Act (14 Stat. 221) which provided in substance that telegraph companies might with government consent construct and operate telegraph lines upon the military and post-roads of the United States, provided they accepted the condition of giving preference over their lines to government business and gave the government an option to purchase any lines so constructed. The companies had of course to get the additional consent of the local authorities. This act when accepted gave the telegraph companies an opportunity to use all post-roads but did not convert the telegraph lines into post-roads. Moreover the law very properly recognizes and treats the telegraph and telephone as distinct and essentially different institutions, and the United States Supreme Court has directly held (174 U. S. 761) that a telephone is not a telegraph and that the pro-



visions of the Act of 1866 did not extend to nor include telephone companies. That statute is therefore of no importance whatever in the consideration of the effect upon telephone systems of the power in the Congress to legislate concerning post-offices and post-roads.

The proponents of the federal ownership project have attempted to coin a new word. They speak of the "postalization" of the telephone systems. There is, of course, no warrant for such a term in this country and the thought of it must have grown out of the fact that Great Britain and some other countries which have undertaken government ownership of telephone lines have endeavored, as a pure matter of convenience in administration, to operate the same in connection with their post-office departments. Those countries, however, are units having centralized governments without constitutional limitations upon their power and what they may undertake to do is no argument in favor of constitutional power here. This country is not a unit but a union of states with a written constitution strictly limiting the authority of the central government. That the telephone is not a true post-office function is, furthermore, well recognized by those countries where the telephone systems are governmentally owned and operated. In Sweden the telephone administration has no relation whatever to the Post-Office Department, and the telephone systems are separately administered in Italy, Norway, Denmark and Switzerland. In some countries the government telephones are administered under a Department of Posts, Telegraphs and Telephones; some under a Ministry of Public Works, etc., etc., but there is a clear distinction made between telephone operation and the ordinary post-office function of mail carrying and distribution.

In this connection it is of interest to quote from a

recent statement made by Major O'Meara, former Engineer-in-Chief of the British Post-Office, where he says:

“I have had the advantage during the past eighteen months of having visited many of the European countries and of having met many officers of the Postal and Telegraph services in these countries. I have found that in every country I have visited there is a consensus of opinion that today the Postal Department should be administered separately from the Telegraph and Telephone Department, and in those countries in which the Post, Telegraphs and Telephones are combined under one administration in theory, I have found that at headquarters the administration of the Posts is separated in practice from that of the Telegraphs and Telephones, and that this separation extends in many cases to the Provincial Administrations. As you are aware, two Royal Commissions have recently investigated the organization of posts, telegraphs and telephones in Italy where at the present time the telephones are under an administration separate from that of the posts and telegraphs. It has been strongly urged by this Royal Commission that the telegraphs should be separated from the posts and placed with the telephones, and that in future the Postal Department should constitute an administration separate from that of the telegraphs and telephones.”

The desire, if we unfortunately have it, to do something in mere imitation of Great Britain or any other foreign country, cannot possibly in this matter, as I shall endeavor to demonstrate in discussing the commerce clause, carry us further than state ownership and operation of the telephone. The post-office and post-roads clause obviously confers no authority upon the federal government to own and operate a public telephone system, and if any power whatever for the purpose can be found in the constitution it must be under the commerce clause.

This commerce clause has been the subject of more discussion and resulted in more litigation than any other clause in the constitution. Never before, however, has it been seriously claimed to authorize the Congress to enact legislation under which the federal government might maintain and carry on a public utility business of an inherently local or intrastate character. The government has established and operated public utilities in its territories and foreign possessions and may acquire or construct certain interstate instrumentalities such as railroads and bridges to serve as military or post-roads, but in cases where it has exercised such power no question of the invasion of state rights has been raised or involved.

In considering this clause of the constitution, the first question which presents itself is whether or not telephoning is "commerce" at all within the meaning of the clause. It is quite apparent that it is not. Importation into one state from another is the indispensable element, the test, of interstate commerce. Unlike the telegraph company the telephone company does not transmit nor deliver messages, either written or oral. It does not transport or carry goods, passengers or information or anything else whatever. Its sole business is to furnish and maintain electrical conductors and instrumentalities in such a manner that its patrons may converse with each other.

Railroad transportation may be called commerce; it is part of the very movement of commerce. Telegraphing, that is, the transmission and delivery of written messages, may also, though improperly, be said to be commerce. But telephoning is nothing but electrically aided conversation; private conversation. It is no more a part of commerce than is the talk over a dinner table or other private conversation. While it



may be used in connection with commercial transactions, it is as largely used for social and private purposes totally unrelated to trade or commerce. What proportion of the use is in connection with commercial transactions no man can say nor is it possible of ascertainment.

Telephone companies have, it is true, been classed with "common carriers" as to their duty to furnish service to all at reasonable rates without discrimination and by the amendment of 1910 to the Interstate Commerce Act the Congress has attempted to make telephone companies subject to that statute, but that telephoning is "commerce" within the meaning of the federal constitution is extremely doubtful and certainly has never been established by any decision of the Supreme Court nor, for that matter, by any well considered decision of any other court.

Assuming, however, that telephoning is commerce and that telephone lines and appurtenances are instruments of commerce, what then is the power of the Congress as to their acquisition and operation? The telephone companies are the creatures of the states, and they are primarily local in their nature, management and operation. They are even more intimately local in their nature than street car and gas and electric light corporations. In their origin they were confined entirely to local service. The interstate service furnished by them is only incidental to and wholly dependent upon their local service, without which it could be neither established, maintained nor supported. In the state of New York of all the telephone use of the lines of the New York Telephone Company over 96 per cent. is purely local, that is, entirely between points within the state, and less than 4 per cent. is interstate. This is upon a revenue basis; if a traffic

basis (i. e., number of calls) were used the percentage of interstate would be almost negligible, not more than a small fraction of one per cent. These percentages of local and interstate use are no doubt approximately the same in the other states.

Not only is the traffic almost entirely local but in the construction and maintenance of the various telephone systems throughout the Union, enormous use has been made of state and municipal roads and highways and of local facilities of many kinds. The administration of these systems is and has been necessarily subject to state and municipal control and supervision for nearly every conceivable purpose. The states have incorporated and now control and tax every telephone company in the United States.

In the State of New York during the year 1913 the New York Telephone Company paid taxes to the amount of \$2,238,341.00, and it is estimated that during that year the total taxes paid to the several states of the Union by telephone companies amounted to the tremendous sum of twenty millions of dollars. Should the telephone properties become federal agencies they will be exempt from taxation and the states will be deprived of this revenue and of the control to which they are rightfully entitled. Other results of federal ownership would be that the police power of the states, cities, towns and villages over the use of their streets and highways for telephone purposes would be hampered if not destroyed and they would consequently be unable to supervise, regulate or control the construction or removal of telephone poles or other structures no matter how unsightly or inconvenient they might be; they would be unable to fix rates, regulate the service or require extensions or additions and the salutary power of local supervision

would cease and be replaced by a supervision by federal officials totally irresponsible to the people of the community affected by their acts. It is very apparent therefore that to deprive the states of their control, supervision and taxation of the telephone systems within their borders would be the plainest and most indisputable invasion of their reserved rights.

Local commerce, that is, commerce which is begun, carried on and completed within the borders of a state, is, as said before, exclusively within the control of the respective states and beyond the control of the Congress under the commerce clause. This principle is just as much a part of the federal system as though it had been stated in express terms in the constitution. It has been asserted and sustained over and over again in the decisions of the Supreme Court. So that even if telephoning could be claimed to be commerce still nearly the whole of such commerce is clearly local and beyond the control of the Congress.

In the Passenger Cases (7 How. 400) the Supreme Court said:

“All commercial action within the limits of a State, and which does not extend to any other State or foreign country, is exclusively under State regulation. Congress have no more power to control this than a State has to regulate commerce ‘with foreign nations and among the several States.’ ”

The rule is similarly stated in many cases all through the reports of the Supreme Court, making it clear that the constitution guarantees the continued existence of the power of the state governments no less than it guarantees the power of the federal government.

In furnishing the local or intrastate telephone service no part of the interstate plant or equipment is used. The interstate service is in all respects wholly



separable and distinct from the local service. Neither the local service nor the furnishing thereof obstructs, interferes with or affects the interstate service or the rates charged therefor.

It should be remembered that telephone service is utterly unlike any other public utility service. In the case of railroads the movement of interstate and local traffic largely takes place at the same time on the same rails, by means of the same trains and cars and it is quite impracticable to make a separation between the interstate and intrastate business in the case either of freight or passengers. In telegraphy the lines run only from one community to another and the company operating the lines receives from its patrons written messages which it takes and by means of its own employees transmits and delivers to the addressees. On the other hand, as said before, the business of the telephone company is solely to furnish instrumentalities whereby its patrons may converse with each other, its plant is stationary and it neither transports nor delivers anything. There are, of course, many other points of dissimilarity between the telephone and other public services. The telephone lines form a network for oral communication within each community and this is by far the largest and most important of its functions. There are at least twenty-five thousand local telephone companies and rural systems now operating in the United States, representing an investment of upwards of a billion dollars. The lines of these companies and rural systems connecting community with community and running across state borders are but incidental to the local lines and business.

The mere fact that the telephone companies have some interstate business does not make the rest of it interstate or subject to federal control. A corporation

which engages partly in interstate commerce does not thereby subject the whole of its business and property to regulation by the Congress. This is well stated by Chief Justice White in the *Employers' Liability Cases* (207 U. S. 463, 502) as follows:

“It remains only to consider the contention which we have previously quoted, that the act is constitutional, although it embraces subjects not within the power of Congress to regulate commerce, because one who engages in interstate commerce thereby submits all his business concerns to the regulating power of Congress. To state the proposition is to refute it. It assumes that because one engages in interstate commerce he thereby endows Congress with power not delegated to it by the Constitution, in other words, with the right to legislate concerning matters of purely state concern. It rests upon the conception that the Constitution destroyed that freedom of commerce which it was its purpose to preserve, since it treats the right to engage in interstate commerce as a privilege which cannot be availed of except upon such conditions as Congress may prescribe, even although the conditions would be otherwise beyond the power of Congress. It is apparent that if the contention were well founded it would extend the power of Congress to every conceivable subject, however inherently local, would obliterate all the limitations of power imposed by the Constitution, and would destroy the authority of the States as to all conceivable matters which from the beginning have been, and must continue to be, under their control so long as the Constitution endures.”

In connection with the regulation of interstate commerce the Congress can investigate and require information concerning the local or intrastate part of the business of the corporation, but it cannot in any way regulate or control that business where interstate commerce is not substantially affected. The following quotation from the opinion of one of the federal judges

states the general rule which has been followed by the courts:

“While the interstate clause of the federal constitution should always be reasonably construed so as to promote the beneficent purposes for which it was ordained, it should never be employed as an instrumentality to take from a state its legitimate control over local business.”

The interstate telephone service is merely auxiliary to the local or intrastate service and the Congress can have no authority in the regulation of a mere auxiliary to usurp the power of the states over the whole extensive local system. In other words the Congress has no exclusive control over the whole telephone system and though, if telephone service be commerce, it may have power to regulate and fix rates affecting the interstate part, it cannot as an incident thereto assume the regulation of the enormous local telephone service of the Union. Still less, of course, has the Congress the power to take over and own and operate all of the local or intrastate systems merely as an incident to the regulation of the comparatively negligible amount of interstate service.

It is also gravely doubted whether the Congress under the guise of regulation can acquire and operate the small auxiliary interstate service even if telephoning be commerce. If under the guise of regulation it is authorized to acquire and own at all can it be permitted to separate and take that which is nothing but an incident to the state systems and only a fractional part of the whole?

The right of the Congress to exclusively regulate interstate commerce is undoubted. Its right to regulate the instrumentalities of such commerce so far as to prevent the states from obstructing the same may



be conceded. Its right to go beyond this is denied and cannot be established unless the country is ready to radically depart from a system of government founded on the common sense principle that the individual can best attend to his own family and business affairs and needs; and that the states and political subdivisions thereof can best manage their own concerns. The founders of our existing political system believed in the efficiency of home rule; they recognized the danger of imperialism; of a great concentration of power in a central body or individual; of armies of office holders appointed and controlled by one power and the folly of attempting to make uniform laws and regulations for widely differing states and localities. They wisely endeavored to guard against any impairment of the rights and powers of the several states of the Union lest future generations might not be sufficiently protected against imperialism or lest the desire for additional offices and patronage and the expenditure of public moneys might later on induce Americans to attempt to needlessly and dangerously enlarge the powers of the central government.

If the federal government is permitted to acquire and carry on the great business of telephony throughout the entire Union, with all that that implies, the construction, maintenance and operation of buildings, offices, switchboards, subways, conduits, ducts, poles, cables, wires, apparatus and equipment and the employment of tens of thousands of people necessary to conduct such an immense enterprise, the process of state destruction will inevitably proceed until sooner or later the states and cities will lose every vestige of their local control over railroads and other public utilities. And there will be no end to the length to which federal encroachment upon the states will be

pushed. This question is one which involves the very existence of the present federal system of government and that system is the only one under which this immense nation can exist and yet be free in the future as it has been in the past.

The advocates of centralization are pleased to say that modern inventions have so approximated once distant communities that central control is easier than it was a century ago; but they overlook the fact that these very inventions and others have so complicated the affairs of life as to make knowledge of local conditions many times more important than it was then. New York is not as distant from Georgia in point of time as it was in 1814, but the difference between the life and needs of a resident of New York City and a farmer of Georgia is very much greater than it was then.

The provision of the constitution to the effect that all the powers not actually enumerated as conferred upon the federal government were reserved to the states or to the people was taken as the expression of the desire and capacity of Americans for self government. Self government and local government and Home Rule are synonymous terms. If the telephone and telegraph systems are made departments of the federal administration there is no logical reason why the steam railroads, street railroads, gas and electric plants, grain elevators, coal and iron mines and the great manufacturing and other business enterprises should not also be acquired. This then is the real proposition before us. Shall the constitution be misinterpreted so as to make way not merely for the federal ownership and operation of the telephone systems but for the greater part of socialism and consequent paralysis of individual initiative? Shall we pass on from

political government to the economic regulation of the affairs of the people by a central administration? This question and the true answer to it can well be made in the following language of President Woodrow Wilson in a lecture on The States and the Federal Government delivered by him at Columbia University in 1907:

“What, reading our Constitution in its true spirit, neither sticking in its letter nor yet forcing it arbitrarily to mean what we wish it to mean, shall be the answer of our generation, pressed upon by gigantic economic problems the solution of which may involve not only the prosperity but also the very integrity of the nation, to the old question of the distribution of powers between Congress and the States? For us, as for previous generations, it is a deeply critical question. The very stuff of all our political principles, of all our political experience, is involved in it. In this all too indistinctly marked field of right choice our statesmanship shall achieve new triumphs or come to calamitous shipwreck. \* \* \*

The United States are not a single, homogeneous community. In spite of a certain superficial sameness which seems to impart to Americans a common type and point of view, they still contain communities at almost every stage of development, illustrating in their social and economic structure almost every modern variety of interest and prejudice, following occupations of every kind, in climates of every sort that the temperate zone affords. This variety of fact and condition, these substantial economic and social contrasts, do not in all cases follow state lines. They are often contrasts between region and region rather than between State and State. But they are none the less real, and are in many instances permanent and ineradicable. \* \* \*

We are too apt to think that our American political system is distinguished by its central structure, by its President and Congress and courts, which the Constitution of the Union set up. As a matter of fact, it is distinguished by its local structure, by the extreme vitality of its parts. It would be an impossibility with-



out its division of powers. From the first America has been a nation in the making. It has come to maturity by the stimulation of no central force of guidance, but by an abounding self-helping, self-sufficing energy in its parts, which severally brought themselves into existence and added themselves to the Union, pleasing first of all themselves in the framing of their laws and constitutions, not asking leave to exist and constitute themselves, but existing first and asking leave afterwards, self-originated, self-constituted, self-confident, self-sustaining, veritable communities, demanding only recognition. Communities develop, not by external but by internal forces. Else they do not live at all. Our commonwealths have not come into existence by invitation, like plants in a tended garden; they have sprung up of themselves, irrepressible, a sturdy, spontaneous product of the nature of men nurtured in a free air.

It is this spontaneity and variety, this independent and irrepressible life of its communities, that has given our system its extraordinary elasticity, which has preserved it from the paralysis which has sooner or later fallen upon every people who have looked to their central government to patronize and nurture them. It is this, also, which has made our political system so admirable an instrumentality of vital constitutional understandings. Throughout these lectures I have described constitutional government as that which is maintained upon the basis of an intimate understanding between those who conduct government and those who obey it. Nowhere has it been possible to maintain such understandings more successfully or with a nicer adjustment to every variety of circumstance than in the United States. The distribution of the chief powers of government among the States is the localization and specialization of constitutional understandings; and this elastic adaptation of constitutional processes to the various and changing conditions of a new country and a vast area has been the real cause of our political success.

The division of powers between the States and the federal government effected by our federal consti-

tution was the normal and natural division for this purpose. Under it the States possess all the ordinary legal choices that shape a people's life. Theirs is the whole of the ordinary field of law; the regulation of domestic relations and of the relations between employer and employe, the determination of property rights and of the validity and enforcement of contracts, the definition of crimes and their punishment, the definition of the many and subtle rights and obligations which lie outside the fields of property and contract, the establishment of the laws of incorporation and of the rules governing the conduct of every kind of business. The presumption insisted upon by the courts in every argument with regard to the powers of the federal government is that it has no power not explicitly granted it by the federal Constitution or reasonably to be inferred as the natural or necessary accompaniment of the powers there indisputably conveyed to it; but the presumption with regard to the powers of the States they have also held to be of exactly the opposite kind. It is that the States of course possess every power that government has ever anywhere exercised, except only those powers which their own constitutions or the Constitution of the United States explicitly or by plain inference withhold. They are the ordinary governments of the country; the federal government is its instrument only for particular purposes."

There is more in this lecture of similar strong and convincing argument, which considering the present exalted position of the lecturer and the quality of his learning on the subject is entitled to the greatest consideration and weight, but want of space forbids further quotation. His views as there expressed may be summarized thus: The greatness and development of the United States are due to the vital energy of the people and that of their several State governments; it is in the local life and governments that the true strength and greatness of the American people is to be

found; the States are politically separated, not artificially but naturally, and the very life of free America demands that their separate life be preserved. When that is destroyed or degraded the federal Union of States will be changed into an empire of subject provinces and the pride and glory of American traditions once represented in the American Constitution will have perished from the earth.

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